

# Notice of Allowability

Application No.

10/722,555

Applicant(s)

ROMOND ET AL.

Examiner

Art Unit

Cynthia B. Wilder, Ph.D.

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/28/2007.
2. ☒ The allowed claim(s) is/are 1-3, 17 and 18.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF, and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 3/28/2007
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material


5. ☐ Notice of Informal Patent Application

6. ☒ Interview Summary (PTO-413)  
Paper No./Mail Date 6/1/07

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other

  
GARY BENZION, PH.D.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

### EXAMINER'S AMENDMENT

1. Applicant's amendment filed 3/28/2007 is acknowledged. Claims 1, 2 and 3 have been amended. Claims 4-16 have been deleted. Claims 17 and 18 have been added. All of the amendments have arguments have been thoroughly reviewed and considered. Applicant's amendment place claims 1-3, 17 and 18 in condition for allowance.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Charles Andres on June 11, 2007.

The application has been amended as follows:

- (a) In claim 1, at step b), the limitation "at least some of" was deleted and replaced with --at least 20 or more nucleotides of--.
- (b) In the claim 1 at step b), the limitation "wherein the amplified at least some of the noncoding intergenic region comprise amplified intergenic regions" in lines 10-11 was deleted.
- (c) In the claim 1 at step c), the limitation --determine-- was inserted after "to" in line 2.
- (e) In the claim 17 in line 2, the limitation "described by" was deleted.

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3. The following is an examiner's statement of reasons for allowance: The claims 1-3, 17 and 18 are in condition for allowance because no prior art was found teaching or suggesting a method of detecting microorganisms of a bacterial flora by amplifying a noncoding intergenic region located in the rpoBC operon. No motivation could be found in the prior art for targeting the rpoBC operon as a means of detecting microorganisms of a bacterial flora. Accordingly an obviousness-type rejection against the claims could not be made.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia B. Wilder, Ph.D. whose telephone number is (571) 272-0791. The examiner can normally be reached on a flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.